

EXHIBIT A

DEAN FULEIHAN 30B6
PAYNE vs DEBLASIO

May 11, 2023

2

May 11, 2023

9:16 a.m.

30(b)(6) Videoconference Deposition
of DEAN FULEIHAN, held via Zoom remote
videoconferencing software in New York,
pursuant to Notice, before TAMI H. TAKAHASHI,
a Registered Professional Reporter and Notary
Public of the State of New York.

DEAN FULEIHAN 30B6
PAYNE vs DEBLASIO

May 11, 2023

3

A P P E A R A N C E S:

(All parties appearing remotely)

Representing the Plaintiffs:

NEW YORK CIVIL LIBERTIES UNION

125 Broad Street, 19th Floor

New York, New York 10004

203.610.1771

BY: ROBERT A. HODGSON, ESQ.

rhodgson@nyclu.org

Representing the Payne Plaintiffs:

NEW YORK CIVIL LIBERTIES UNION

125 Broad Street, 19th Floor

New York, New York 10004

203.610.1771

BY: MOLLY BIKLEN, ESQ.

mbiklen@nyclu.org

DEAN FULEIHAN 30B6
PAYNE vs DEBLASIO

May 11, 2023

4

A P P E A R A N C E S:

(All parties appearing remotely)

Representing the People of the State of New
York:

NEW YORK STATE OFFICE OF THE ATTORNEY

GENERAL

28 Liberty Street, 23rd Floor

New York, New York 10005-1495

646.574.2180

BY: GINA M. BULL, ESQ.

gina.bull@ag.ny.gov

Representing the New York City defendants:

NEW YORK CITY LAW DEPARTMENT

100 Church Street

New York, New York 10007

212.356.2371

BY: THOMAS DEAN, ESQ.

thdean@law.nyc.gov

DEAN FULEIHAN 30B6
PAYNE vs DEBLASIO

May 11, 2023

5

A P P E A R A N C E S:

(All parties appearing remotely)

Representing Defendant-Intervenors the
Sergeants Benevolent Association:

QUINN LAW FIRM

399 Knollwood Road, Suite 220

White Plains, New York 10603

914.997.0555

BY: MARYKATE ACQUISTO, ESQ.

office@quinnlawny.com

1
2 IT IS HEREBY STIPULATED AND AGREED
3 by and between the attorneys for the
4 respective parties herein, that filing
5 and sealing be and the same are hereby
6 waived.

7 IT IS FURTHER STIPULATED AND AGREED
8 that all objections, except as to the
9 form of the question, shall be reserved
10 to the time of the trial.

11 IT IS FURTHER STIPULATED AND AGREED
12 that the within deposition may be signed
13 and sworn to before any officer
14 authorized to administer an oath, with
15 the same force and effect as if signed
16 and sworn to before the Court.

17
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19
20
21 -O-
22
23
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25

1
2 STENOGRAPHIC REPORTER: Good
3 morning. This is Tami Takahashi. I'm a
4 Registered Professional Reporter and New
5 York State notary public. This
6 deposition is being held via
7 videoconference. The witness and I are
8 not in the same room. The witness will
9 be sworn in remotely, and the parties
10 stipulate that the testimony is being
11 given as if the witness was sworn in
12 person.

13 D E A N F U L E I H A N, called as a
14 witness, having been duly sworn by a
15 Notary Public, was examined and testified
16 as follows:

17 EXAMINATION

18 BY MR. HODGSON:

19 Q. Mr. Fuleihan, my name is Bobby
20 Hodgson. I'm an attorney for the New York
21 Civil Liberties Union and I represent the
22 plaintiffs in this -- one of these
23 consolidated cases, Payne versus de Blasio.

24 I -- we will be joined throughout
25 the day, perhaps, by lawyers from other

DEAN FULEIHAN 30B6
PAYNE vs DEBLASIO

May 11, 2023
207

1 D. Fuleihan

2 don't recall the time.

3 Q. Okay.

4 A. I have no reason to doubt this.

5 I'm just -- but I -- you asked me my

6 recollection of the time, and I didn't recall

7 it.

8 Q. All right. So were you yourself

9 receiving updates about the protests and the

10 arrests that happened in Mott Haven in

11 realtime?

12 A. Yes, I'm on this email.

13 Q. Okay. Other than this email, were

14 you receiving any additional updates from

15 people on the ground at the protest?

16 A. I believe I was.

17 Q. From whom?

18 A. I'm quite sure Marco.

19 Q. Okay. From anyone else?

20 A. Possibly. Possibly.

21 Q. But you're not sure?

22 A. From -- possibly from the -- I'm

23 quite sure there were conversations as well

24 with the NYPD. But I don't recall who

25 specifically two years ago I had that

1 D. Fuleihan

2 conversation with.

3 Q. Okay. Did you receive any emails
4 or texts from NYPD personnel on the night of
5 June 4th regarding Mott Haven?

6 A. I don't recall that. I'm quite
7 sure I had phone calls about them. And,
8 again, I assume you would know if I had an
9 email or a text.

10 MR. HODGSON: Okay. So you can put
11 that exhibit away and open up Exhibit
12 19.

13 THE WITNESS: Okay.

14 MR. HODGSON: This is Bates
15 numbered DEF_DEP_MARCO CARRIÓN
16 TEXTS_PART 2_00133 to 135. And it's
17 three pages.

18 (Plaintiffs' Exhibit 19,
19 CONFIDENTIAL_DEF_DEP_MARCO CARRIÓN
20 TEXTS_PART 2_00133 through
21 CONFIDENTIAL_DEF_DEP_MARCO CARRIÓN
22 TEXTS_PART 2_00135, marked for
23 identification as of this date.)

24 BY MR. HODGSON:

25 Q. Let me know when you've opened it.

DEAN FULEIHAN 30B6
PAYNE vs DEBLASIO

May 11, 2023
209

1 D. Fuleihan

2 A. I've opened it.

3 Q. Okay. So I'll represent that I'm
4 showing you a text chain that was produced by
5 the City from the phone of Marco Carrión.

6 A. Um-hum.

7 Q. And as you'll see on the second
8 page of the document, the first text starts
9 June 4, 2020 at 10:15 p.m., correct?

10 A. I'm sorry. I'm looking for 10:15.
11 I have it now.

12 MR. DEAN: Yeah, I explained --

13 THE WITNESS: Yes.

14 MR. DEAN: -- emails work from the
15 bottom up.

16 THE WITNESS: Yes. I was going the
17 wrong way. I apologize.

18 MR. HODGSON: No worries.

19 BY MR. HODGSON:

20 Q. And so you had just texted (sic)
21 that you were certain you spoke with Marco
22 Carrión on the night of June 4th, correct?

23 A. Yes.

24 Q. And he was present for some portion
25 of the Mott Haven protest that night,

DEAN FULEIHAN 30B6
PAYNE vs DEBLASIO

May 11, 2023
210

1 D. Fuleihan

2 correct?

3 A. That's my recollection.

4 Q. And do you have any reason to doubt
5 the observations of Marco Carrión from that
6 night?

7 A. No.

8 Q. So starting at 10:16 p.m. --

9 A. Um-hum.

10 Q. -- in response to a text that asks
11 him "are they violent?" Mr. Carrión replied,
12 "The protesters no."

13 Do you see that?

14 A. Yes.

15 Q. Is that description consistent with
16 the Mayor's Office' understanding of whether
17 the Mott Haven protesters were violent on the
18 night of June 4th?

19 A. I don't believe it is consistent
20 with what NYPD saw.

21 Q. So was the Mayor's Office's
22 understanding of whether there was violence
23 not based on the observations of the Mayor's
24 Office staff?

25 A. It was based on both observations.

DEAN FULEIHAN 30B6
PAYNE vs DEBLASIO

May 11, 2023
211

1 D. Fuleihan

2 Q. Okay.

3 A. I mean, we were -- there was a
4 reason to have Mayor's Office staff there and
5 there was a reason to ask NYPD what they were
6 observing.

7 Q. And so the description that
8 Mr. Carrión gave of the protesters not being
9 violent, you're saying, was in conflict with
10 reporting that you got or the Mayor's Office
11 got from the NYPD?

12 A. I'm saying that I believed the NYPD
13 information at the time is not consistent
14 with this.

15 Q. Okay. Not consistent in what way?

16 A. My recollection is that they felt
17 there were danger there, they had made
18 arrests and they thought there was the
19 presence of additional danger.

20 I don't recall if they actually
21 said there was also incidences of violence on
22 the part of the protesters beyond the -- the
23 items they confiscated that evening.

24 Q. And where did this reporting come
25 from?

DEAN FULEIHAN 30B6
PAYNE vs DEBLASIO

May 11, 2023
212

1 D. Fuleihan

2 A. NYPD.

3 Q. Who?

4 A. It would have come up through,
5 again, the senior management. I know Terry
6 Monahan was at the site, so I doubt it came
7 from him there. But it would have come from
8 the commissioner.

9 Q. Okay. Directly to you?

10 A. And maybe John Miller, as well, who
11 was head of intelligence.

12 Q. But you're not sure?

13 A. I'm not sure.

14 Q. And did this information come
15 directly to you?

16 A. Sure, it would have -- I would --
17 it could have gone to the mayor as well. But
18 it certainly would have come to me, as would
19 Marco's.

20 Q. Okay. So just a few lines down --

21 A. Um-hum.

22 Q. -- at 10:17 in response to the
23 question "Cops?" Marco Carrión texts,
24 "Aggressive."

25 A. Um-hum.

DEAN FULEIHAN 30B6
PAYNE vs DEBLASIO

May 11, 2023
213

1 D. Fuleihan

2 Q. Is that description consistent with
3 the Mayor's Office's understanding of whether
4 the NYPD was aggressive in Mott Haven on June
5 4th?

6 A. That's consistent with what Marco
7 and his staff were saying. And -- and ends
8 up being consistent -- I hate -- forgive me,
9 but it ends up being consistent with DOI's
10 findings.

11 Q. And what was the Mayor's Office's
12 understanding of whether the cops were
13 aggressive at the Mott Haven protest on June
14 4, 2020?

15 A. We were getting this information
16 and we were conveying it to the NYPD and
17 asking questions and challenging what -- is
18 this accurate?

19 Q. What was the mayor's understanding
20 of whether the cops were aggressive that
21 night?

22 A. The mayor would have gotten the
23 exact same information I did.

24 Q. Can you testify as to what his
25 understanding of the situation was?

DEAN FULEIHAN 30B6
PAYNE vs DEBLASIOMay 11, 2023
214

1 D. Fuleihan

2 A. That his staff, that his personal
3 staff, the City Hall staff, felt that NYPD
4 was being very aggressive and that the NYPD
5 were arguing that they had to be, that there
6 were reasons.

7 Q. Okay. And between the two, who
8 would the mayor have believed if there was
9 reporting that was in conflict?

10 MR. DEAN: Objection to form.

11 A. He would try to get to what -- what
12 actually is happening. And, obvious, in
13 these situations, there's confusion and
14 conflicting reports. And he would try to
15 understand exactly what was happening, which
16 is what he tried to do.

17 BY MR. HODGSON:

18 Q. So the mayor was confused about
19 what was happening on the night of June 4th?

20 A. No.

21 MR. DEAN: Objection to form.

22 A. No. He was trying to understand,
23 as I was trying to understand, exactly what
24 was happening.

25 BY MR. HODGSON:

DEAN FULEIHAN 30B6
PAYNE vs DEBLASIO

May 11, 2023
215

1 D. Fuleihan

2 Q. But he did not have a clear
3 understanding of what was happening?

4 MR. DEAN: Objection to form.

5 A. We were getting confusing
6 messages -- we were getting disagreeing
7 messages as to what was happening and why it
8 was happening.

9 Q. Okay. So did he have a clear
10 understanding of what was happening?

11 MR. DEAN: Objection to form.

12 A. I'm going to -- there's a reason
13 the mayor asked for the DOI investigation and
14 the Corporation Counsel --

15 BY MR. HODGSON:

16 Q. I'm sorry. You're not answering my
17 question. It's very simple.

18 Did he have a clear understanding
19 of what was happening the night of June 4,
20 2020?

21 MR. DEAN: Objection to form.

22 A. He had different information. He
23 was not on the site. Neither was I.

24 BY MR. HODGSON:

25 Q. Okay. At 10:19 p.m., Mr. Carrión

1 D. Fuleihan
2 texts, "Tonight they been using the curfew to
3 arrest protesters regardless of tenor of
4 march from my vantage point and my teams
5 (sic) field reports."

6 Is that description consistent with
7 the Mayor's understanding of whether the NYPD
8 used the curfew to arrest protesters
9 regardless of tenor of the March at Mott
10 Haven on June 4th?

11 A. Our understanding was that the NYPD
12 was arresting people and had done a
13 significant number of arrests at Mott Haven.
14 And not everyone who was being arrested
15 was -- was a -- was acting in a way that in
16 another area of the city they may not have
17 arrested them.

18 Q. At the top of the next page,
19 there's at text that says, "Bill must be
20 ok ing this or he doesn't know."

21 Was Mayor de Blasio okaying the
22 arrest of protesters after 8 p.m. regardless
23 of the tenor of the march?

24 MR. DEAN: Can you tell us the time
25 that you're looking at.

DEAN FULEIHAN 30B6
PAYNE vs DEBLASIO

May 11, 2023
217

1 D. Fuleihan

2 MR. HODGSON: Sure. This is the
3 very top of the next page at 10:20 p.m.
4 There's a text that says, "Bill must be
5 ok ing this or he doesn't know."

6 BY MR. HODGSON:

7 Q. Do you see that?

8 A. Yes.

9 Q. Was Mayor de Blasio okaying the
10 arrest of protesters after 8 p.m. regardless
11 of the tenor of the march?

12 MR. DEAN: Objection to form.

13 A. I don't believe so.

14 BY MR. HODGSON:

15 Q. Based on what?

16 A. His intent was to allow peaceful
17 protests to continue and people to -- if the
18 PD thought they had to disperse, to give
19 proper notification and allow it to happen.

20 Q. Okay. And so it would be in
21 conflict with his understanding of how
22 arrests were intended to occur that night if
23 peaceful protesters were being arrested
24 regardless of the tenor of the march,
25 correct?

DEAN FULEIHAN 30B6
PAYNE vs DEBLASIO

May 11, 2023
218

1 D. Fuleihan

2 A. Correct.

3 Q. Do you need me to repeat the
4 question?

5 A. I'm sorry. I thought I answered
6 it.

7 MR. DEAN: He said "correct."

8 BY MR. HODGSON:

9 Q. What did you say?

10 A. Well, now you should repeat it. I
11 apologize, but I thought I answered you.

12 MR. HODGSON: Did you get an
13 answer, Tami? What was it?

14 STENOGRAPHIC REPORTER: He said
15 "yes." I'm sorry. He said "correct."

16 BY MR. HODGSON:

17 Q. Great. I'm so sorry. I did not
18 hear it. I think my earphones are a little
19 low.

20 A. Okay.

21 Q. Okay. So the next text down or a
22 few texts down at 10:20 p.m., Marco Carrión
23 says, "The deal with PD is they'd let folks
24 march if they were peaceful."

25 Is that correct?

DEAN FULEIHAN 30B6
PAYNE vs DEBLASIO

May 11, 2023
219

1 D. Fuleihan

2 A. Yes.

3 Q. Okay. So on June 5th, the next
4 day, Police Commissioner Shea said that the
5 NYPD --

6 A. I'm sorry. Are we still on this or
7 you want me to --

8 Q. You can -- you can close this out.

9 A. Okay. Thank you. And we should go
10 back to you?

11 MR. DEAN: Is there another exhibit
12 you want us to look at?

13 MR. HODGSON: I wasn't going to put
14 up an exhibit, but I may depending on
15 how you answer my questions.

16 MR. DEAN: Okay.

17 THE WITNESS: Fine.

18 BY MR. HODGSON:

19 Q. So I'm representing to you --

20 THE WITNESS: I would just as soon
21 look at someone. I'm sorry.

22 MR. HODGSON: Sure.

23 BY MR. HODGSON:

24 Q. -- that on June 5, 2020 the next
25 day, Police Commissioner Shea stated in a

DEAN FULEIHAN 30B6
PAYNE vs DEBLASIOMay 11, 2023
220

1 D. Fuleihan

2 press conference that the NYPD's plan was
3 executed nearly flawlessly the night of June
4 4th.

5 Was it the position of the Mayor's
6 Office that the NYPD's plan was executed
7 nearly flawlessly at Mott Haven?

8 A. It was not.

9 Q. Why not?

10 A. There were peaceful protesters who
11 were arrested without the opportunity to
12 disperse. And I know you get annoyed when I
13 refer to it and I apologize, but that was
14 confirmed in the DOI report.

15 Q. I'm certainly not annoyed. I
16 welcome reference to the DOI report.

17 A. Okay.

18 Q. So going back to Commissioner
19 Shea's language about a plan being executed
20 nearly flawlessly, was the Mayor's Office
21 aware of a specific NYPD plan regarding the
22 Mott Haven June 4th protest?

23 MR. DEAN: Well, objection to form.

24 A. The NYPD was going to address their
25 concerns with what they perceived to be the

DEAN FULEIHAN 30B6
PAYNE vs DEBLASIO

May 11, 2023
221

1 D. Fuleihan
2 violence and what they were picking up in
3 intelligence. What happened that night, no,
4 that was not a plan I was aware of.

5 BY MR. HODGSON:

6 Q. Okay. I mean, did the Mayor's
7 Office understand in advance that the NYPD
8 would plan to arrest people right at 8
9 o'clock?

10 A. And give them no ability to
11 disperse? No, we did not know that.

12 Q. Regardless of the ability to
13 disperse, was the Mayor's Office aware of
14 NYPD plans to begin arresting people right at
15 8 o'clock?

16 A. I don't believe so. That's not my
17 recollection.

18 Q. Is it -- was the mayor aware of the
19 NYPD -- of an NYPD plan to begin arresting
20 people right at 8 o'clock at Mott Haven?

21 MR. DEAN: Objection to form.

22 A. I don't believe so.

23 BY MR. HODGSON:

24 Q. Okay. Would he know?

25 MR. DEAN: Objection to form.

DEAN FULEIHAN 30B6
PAYNE vs DEBLASIO

May 11, 2023
222

1 D. Fuleihan

2 A. I think -- I am -- I do not
3 believe -- so let me restate it.

4 I do not believe that we had
5 knowledge that everyone at Mott Haven was
6 going to be arrested at 8 p.m.

7 BY MR. HODGSON:

8 Q. Did you have knowledge that anyone
9 was going to be arrested at Mott Haven at 8
10 o'clock?

11 A. Well, to the extent that NYPD was
12 concerned about particular individuals and
13 particular violence and potential -- and
14 potential violence and those individuals,
15 they were looking for and would try to arrest
16 them. So I can't give it a blanket that no
17 one would be arrested.

18 Q. Did the Mayor's Office expect
19 peaceful protesters to be arrested at Mott
20 Haven on June 4th?

21 A. In general --

22 MR. DEAN: At any time? At any
23 time, you're asking?

24 MR. HODGSON: I said --

25 THE WITNESS: You mean -- sorry.

DEAN FULEIHAN 30B6
PAYNE vs DEBLASIO

May 11, 2023
223

1 D. Fuleihan

2 You should answer. You should ask the
3 question. I apologize.

4 MR. HODGSON: No.

5 BY MR. HODGSON:

6 Q. So the Mayor's Office was aware
7 that the NYPD expected potential threats of
8 violence, correct?

9 A. Correct, correct.

10 Q. The Mayor's Office was not aware of
11 any specific plan to address that expected
12 threat, correct?

13 A. No, we assumed that they would
14 address the expected threat as best they
15 could.

16 Q. But you were not aware --

17 A. I mean, if they did find someone
18 with a gun, they -- they -- they arrested
19 that person. If they found people with
20 incendiary devices, they arrested those
21 people. Of course, we would expect that.

22 Q. We're fine.

23 MR. HODGSON: Okay. So I am going
24 to show you another exhibit. This will
25 take just a second. Can we actually

DEAN FULEIHAN 30B6
PAYNE vs DEBLASIO

May 11, 2023
224

1 D. Fuleihan
2 take a five-minute break? I'm having a
3 little bit of a tech issue.

4 MR. DEAN: Sure.

5 MR. HODGSON: And just come back
6 at -- actually, a three-minute break at
7 2:15?

8 MR. DEAN: Okay, yeah.

9 THE WITNESS: Sure.

10 MR. HODGSON: Sorry, I just froze
11 up a second.

12 MR. DEAN: That's fine.

13 THE WITNESS: Thank you.

14 MR. HODGSON: Okay. We'll go off
15 the record. Back at 2:15.

16 (Recess taken.)

17 MR. HODGSON: So I've just dropped
18 a new exhibit into the chat. It's
19 marked --

20 THE WITNESS: Page 6?

21 MR. HODGSON: -- Fuleihan Exhibit
22 36. And it may take a moment to open.

23 MR. DEAN: You just click "save"
24 once, once you've got it.

25 THE WITNESS: I don't have it. Do

DEAN FULEIHAN 30B6
PAYNE vs DEBLASIO

May 11, 2023
225

1 D. Fuleihan

2 you see it? I don't see 36 yet.

3 MR. DEAN: Go back.

4 THE WITNESS: Oh, it's right there
5 saved. I'm sorry, I see what's
6 happening. Okay.

7 MR. DEAN: And then you go back --

8 THE WITNESS: Then you go back
9 here, okay.

10 Okay, we have it open.

11 BY MR. HODGSON:

12 Q. Great. So as you'll see, this is a
13 download from the New York City website that
14 hosts a transcript of the mayor -- the
15 mayor's press conference of June 5, 2020.

16 It's very long. I'm not going to ask you to
17 see the whole thing. I will represent that I
18 downloaded it from the City's website and,
19 because of technical issues, I just did that.

20 A. Okay.

21 Q. So I would ask you to go to the
22 ninth page of this document of 14.

23 A. Okay. We're almost there. I think
24 we're on the ninth page.

25 Q. Okay. So towards the bottom of the

DEAN FULEIHAN 30B6
PAYNE vs DEBLASIO

May 11, 2023
356

1 D. Fuleihan

2 MS. BULL: All right. Thank you.

3 No further questions for me.

4 MR. DEAN: I haven't any.

5 THE WITNESS: Thank you.

6 STENOGRAPHIC REPORTER: Ms. Bull,
7 are you ordering a copy of the
8 transcript?

9 MS. BULL: No, I'm not. Thank you.

10 (Time noted: 5:05 p.m.)

11
12
13 _____
14 DEAN FULEIHAN

15
16 Subscribed and sworn to before me
17 this____ day of _____, 2023.

DEAN FULEIHAN 30B6
PAYNE vs DEBLASIO

May 11, 2023
357

C E R T I F I C A T E

STATE OF NEW YORK)

: ss.

COUNTY OF NEW YORK)

I, TAMI H. TAKAHASHI, a Notary
Public within and for the State of New
York, do hereby certify:

That DEAN FULEIHAN, the witness
whose deposition is hereinbefore set
forth, was duly sworn by me and that
such deposition is a true record of the
testimony given by the witness.

I further certify that I am not
related to any of the parties to this
action by blood or marriage, and that I
am in no way interested in the outcome
of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 20th day of May 2023.



TAMI H. TAKAHASHI